

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

RORY L. MICKENS, et. al.,

Plaintiffs,

v.

JAY INSLEE, et. al.,

Defendants.

CASE NO. 20-5259 RJB

ORDER ADOPTING REPORT AND  
RECOMMENDATION

THIS MATTER comes before the Court on the Report and Recommendation of U.S. Magistrate Judge J. Richard Creatura. Dkt. 59. The Court has considered the Report and Recommendations, Objections to the Report and Recommendation, and the remaining file.

On March 17, 2020, over 30 *pro se* prisoners filed this case, asserting various violations of their constitutional rights. Dkt. 1. On April 29, 2020, the Plaintiffs were ordered to show cause, if any they had, why the case should not be separated into individual cases. Dkt. 55. Only around 16 Plaintiffs responded to the order to show cause (along with two non-party prisoners who also signed the response). Dkt. 58.

1 After considering the response (and failure to respond) to the order to show cause, the  
2 instant Report and Recommendation was issued, recommending that all parties except the first  
3 named Plaintiff, Rory Mickens, be dismissed without prejudice to refile their cases, if they  
4 choose. Dkt. 59.

5 The 16 or so Plaintiffs (and two non-party prisoners) who filed the response to the order  
6 to show cause (Dkt. 58), filed objections (Dkt. 62) and re-filed their response to the order to  
7 show cause (Dkt. 61). In their objections, they argue that the U.S. Magistrate Judge does not  
8 have jurisdiction because the case has not been served, that the Washington State Bar Act  
9 (forbidding the unauthorized practice of law) is unconstitutional, and Fed. R. Civ. P. 21 is  
10 “functionally unconstitutional.” Dkt. 62.

11 The Report and Recommendation should be adopted and all but the first named Plaintiff  
12 in this case, Rory Mickens, should be dismissed without prejudice. The Plaintiffs’ objections do  
13 not provide adequate grounds to fail to adopt the Report and Recommendation. They make no  
14 showing that the U.S. Magistrate Judge does not have jurisdiction because the case has not yet  
15 been served. They fail to show that either the Washington State Bar Act or Fed. R. Civ. P. 21 is  
16 unconstitutional. To the extent they incorporate the arguments in their response to the order to  
17 show cause (Dkt. 61) in their objections (Dkt. 62), these arguments are addressed in the Report  
18 and Recommendation and are not sufficient grounds to reject the Report and Recommendation.

19 The Report and Recommendation should be adopted and the case re-referred to U.S.  
20 Magistrate Judge J. Richard Creatura. All Plaintiffs, except Plaintiff Rory Mickens, should be  
21 dismissed from this case. All dismissed plaintiffs, if they choose to re-file their claims, should  
22 proceed in separate cases, file new complaints which address only their individual claims, and  
23 pay a new filing fee or file an application to proceed *in forma pauperis*. Plaintiff Mickens, if he  
24

1 chooses to continue with the case, should file an amended complaint addressing only his  
2 individual claims within thirty days of the date of this order.

3 **IT IS ORDERED THAT:**

- 4
- The Report and Recommendation (Dkt. 59) **IS ADOPTED**;
  - All parties, except the first named plaintiff (Mickens), **ARE DISMISSED** from  
6 this matter **WITHOUT PREJUDICE**. All dismissed plaintiffs, if they choose to  
7 re-file their claims, must proceed in separate cases, file new complaints which  
8 address only their individual claims, and pay a new filing fee or file an application  
9 to proceed *in forma pauperis*;
  - If he chooses to continue with this case, Plaintiff Mickens **MUST FILE** an  
11 amended complaint addressing only his individual claims within thirty days of the  
12 date of this order; and
  - This case is **RE-REFERRED** to U.S. Magistrate Judge J. Richard Creatura for  
14 further proceedings.

15 The Clerk is directed to send uncertified copies of this Order to U.S. Magistrate Judge J.  
16 Richard Creatura, all counsel of record and to any party appearing *pro se* at said party's last  
17 known address.

18 Dated this 3<sup>rd</sup> day of August, 2020.

19 

20 ROBERT J. BRYAN  
21 United States District Judge